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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/501,091	07/09/2004	Takashi Suzuki	042565	3053

7590 09/25/2006

Westerman Hattori Daniels & Adrian
PO Box 33275
Washington, DC 20033-3275

EXAMINER

HAWK, NOAH CHANDLER

ART UNIT	PAPER NUMBER
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3636

DATE MAILED: 09/25/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/501,091	Applicant(s) SUZUKI ET AL.	
	Examiner Noah C. Hawk	Art Unit 3636	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**: 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-13 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-13 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 09 July 2004 is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☒ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date <u>7/9/04</u> . | 6) <input type="checkbox"/> Other: ____. |

DETAILED ACTION

Information Disclosure Statement

1. The information disclosure statement filed 7/9/04 fails to comply with 37 CFR 1.98(a)(2), which requires a legible copy of each cited foreign patent document; each non-patent literature publication or that portion which caused it to be listed; and all other information or that portion which caused it to be listed. It has been placed in the application file, but the information referred to therein has not been considered.

Claim Objections

2. Claims 1-13 are objected to because of the following informalities: the word "awning" is consistently misspelled as "awing" throughout the claims. The word "substantial" is misspelled in the last line of Claim 6. Appropriate correction is required.

Drawings

3. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the "bridge beams" recited in claims 1 and 2 must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure

number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 112

4. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

5. Claims 1-4 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention. Claims 1 and 2 recite a "zenith which is flat" but Claims 3 and 4 go on to recite a zenith with a raised portion in the middle. The applicant does not disclose how a zenith can be simultaneously flat and raised in the middle. For the purposes of examination, the zenith

will be treated as having either a flat portion or a raised portion, but not both at the same time.

6. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

7. Claim 5 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. It is unclear if the frame members recited in claim 5 are the same as those recited in Claims 1 or 2 or if new frame members are being introduced. For the purposes of examination, the frame members recited in Claim 5 shall be treated as the same as those in Claim 1 or 2.

8. Claim 7 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. It is unclear what limitations this claim is imparting to the ventilators. The limitations of this claim must be more distinctly set out.

Claim Rejections - 35 USC § 102

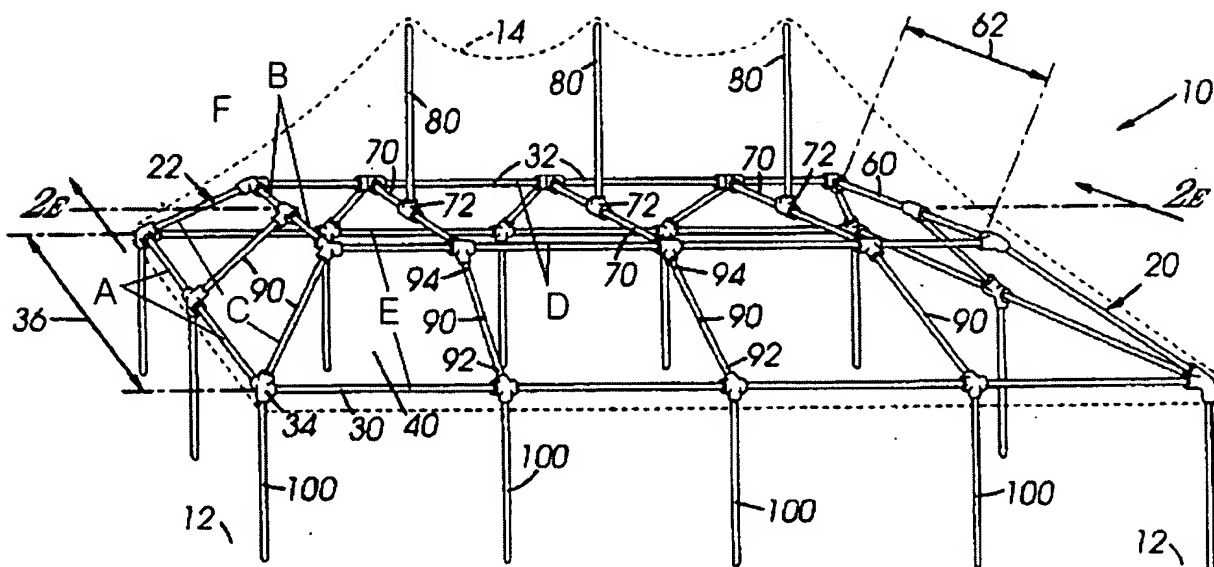
9. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

10. Claims 1 and 3-6 (as dependent on claim 1) are rejected under 35 U.S.C. 102(b) as being anticipated by McKenney in US Patent 5711337.

- a. Regarding Claim 1, McKenney teaches a tent having an awning roof with left and right upright trapezoidal sides, a flat zenith (best seen in Figure 2b) and front and rear inclined faces as well as trapezoidal frames (formed on the ends by members A, B and C) forming left and right sides and four bridge beams (D, E) extending horizontally between the trapezoidal frames.
- b. Regarding Claim 3, McKenney further teaches reinforcing members (80) arranged to have a projecting ridge on the zenith.
- c. Regarding Claim 4, McKenney further teaches a convex portion (best seen in Figure 1) provided in the zenith.
- d. Regarding Claim 5, McKenney further teaches that the framework comprises two ridge beams (D), two side beams (B, shown only on one side of the tent), two pole plates (E), two end plates (A, shown only on one side of the tent) and four rafters (C, shown only on one side of the tent), all of which are made of metallic pipes (see McKenney, Column 4, lines 66-67).
- e. Regarding Claim 6, McKenney further teaches that the framework is adapted to be freely assembled or disassembled (see McKenney, Column 4, line 63- Column 5, line 2).



McKenney, Figure 1

Claim Rejections - 35 USC § 103

11. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

12. Claims 2, 3-6 (as dependent on claim 2), and 7-10 are rejected under 35 U.S.C. 103(a) as being unpatentable over McKenney in view of Cunningham in US Patent 662816.

f. Regarding Claims 2, 7 and 10, McKenney teaches a tent having an awning roof with left and right upright trapezoidal sides, a flat zenith (best seen in Figure 2b) and front and rear inclined faces as well as trapezoidal frames

(formed on the ends by members A, B and C) forming left and right sides and four bridge beams (D, E) extending horizontally between the trapezoidal frames. McKenney fails to teach a ventilator. Cunningham teaches a ventilator comprising a plurality of openings (13) formed adjacent to each other and a sheet lid (12) the upper edge fixed to a portion of the zenith of a roof by sewing (see Cunningham, Column 2, lines 28-30) and the opposite edge is connected by a tie-down means (14) allowing a part or parts of the corner edge of the awning adjacent to the ventilator to be free. Cunningham further teaches that the area between the openings can retain strength of the awning roof (see Cunningham, Column 1, lines 24-36) and that the openings have sufficient size so as to allow the lid to open when subjected to a gust or big wind (insofar as the applicant teaches these features). It would have been obvious to one of ordinary skill in the art at the time of invention to modify the device of McKenney by adding a ventilator as taught by Cunningham in order to "allow moving air to vent from beneath" (see Cunningham, Column 1, lines 26-27).

g. Regarding Claim 3, McKenney, as modified, further teaches reinforcing members (80) arranged to have a projecting ridge on the zenith.

h. Regarding Claim 4, McKenney, as modified, further teaches a convex portion (best seen in Figure 1) provided in the zenith.

i. Regarding Claim 5, McKenney, as modified, further teaches that the framework comprises two ridge beams (D), two side beams (B, shown only on one side of the tent), two pole plates (E), two end plates (A, shown only on one

Art Unit: 3636

side of the tent) and four rafters (C, shown only on one side of the tent), all of which are made of metallic pipes (see McKenney, Column 4, lines 66-67).

j. Regarding Claim 6, McKenney, as modified, further teaches that the framework is adapted to be freely assembled or disassembled (see McKenney, Column 4, line 63- Column 5, line 2).

k. Regarding Claims 8 and 9, McKinney, as modified, teaches that the awning is made of a waterproof (see McKinney, Column 1, lines 22-23 and 52-54) and is made of sailcloth (see McKinney, Column 1, lines 22-23: canvas is considered sailcloth). It would have been obvious to one of ordinary skill in the art at the time of invention to use the same material for the ventilator sheet lid as for the awning in order to provide the same water-resistant and robust cloth as the rest of the awning.

13. Claim 11 is rejected under 35 U.S.C. 103(a) as being unpatentable over McKinney, as modified, as applied to claim 2 above, and further in view of Larson in US Patent 2036482. McKenney, as modified, is silent on the type of cord used to tie down the lid. Larson teaches the replacement of static cord (shoelaces) with rubber cords (elastic shoelaces). It would have been obvious to one of ordinary skill in the art at the time of invention to use rubber cords as taught by Larson to tie the lid to the awning in order to "be capable of yielding to slight variations or tensions" (see Larson, Column 1, lines 24-25).

14. Claim 12 is rejected under 35 U.S.C. 103(a) as being unpatentable over McKinney, as modified, as applied to claim 2 above, and further in view of Cunningham

Art Unit: 3636

and Larson. McKinney, as modified, fails to teach the use of rubber cords or rings in the lid and awning. Cunningham teaches the use of metal or plastic rings ("a parallel series of eyelets" please see Cunningham, Column 1, line 30). It would have been obvious to one of ordinary skill in the art at the time of invention to modify the device of McKinney, as modified, by using eyelets along the lid and awning in order to improve the strength of the fabric at the stress points. McKenney, as modified, is silent on the type of cord used to tie down the lid. Larson teaches the replacement of static cord (shoelaces) with rubber cords (elastic shoelaces). It would have been obvious to one of ordinary skill in the art at the time of invention to use rubber cords as taught by Larson to tie the lid to the awning in order to "be capable of yielding to slight variations or tensions" (see Larson, Column 1, lines 24-25).

15. Claim 13 is rejected under 35 U.S.C. 103(a) as being unpatentable over McKinney, as modified, as applied to claim 2 above, and further in view of Farley in US Patent 3456661. McKinney, as modified, fails to teach a waterproof bellows on the left and right sides of the ventilator. Farley teaches a ventilation device (19) in an umbrella with a waterproof (see Farley, Column 5, line 22-23: plastic is considered a waterproof sheet) bellows-type attachment on the sides (17). It would have been obvious to one of ordinary skill in the art at the time of invention to modify the device of McKinney, as modified, by using a waterproof bellows attachment on the sides of the ventilator in order to provide more durable attachments on the sides of the sheet lid.

Conclusion

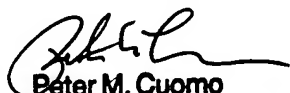
16. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Priest, Stern, Bemis, and Spaulding teach tent frames. Moakley, Runcie, Watanabe, and Henningsson et al. teach vented tents.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Noah C. Hawk whose telephone number is 571-272-1480. The examiner can normally be reached on M-F 9am to 5:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Peter Cuomo can be reached on 571-272-6856. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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Peter M. Cuomo
Supervisory Patent Examiner
Technology Center 3600